UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION

SNYDER'S-LANCE, INC. and)	
PRINCETON VANGUARD, LLC,)	
Plaintiffs,)	
v.)	Case No. 3:17-CV-00652
FRITO-LAY NORTH AMERICA, INC.,)	
Defendant.)	

PLAINTIFFS SNYDER'S-LANCE, INC.'S AND PRINCETON VANGUARD, LLC'S CROSS-MOTION FOR SUMMARY JUDGMENT

Pursuant to Rule 56 of the Federal Rules of Civil Procedure and Rule 7.1 of the Local Civil Rules, Plaintiffs Snyder's-Lance, Inc. and Princeton Vanguard, LLC hereby move the Court for summary judgment in their favor as to all their claims on the grounds that there is no genuine issue as to any material fact and that they are entitled to judgment as a matter of law.

Judged by the controlling legal standards, the record demonstrates conclusively that (a) the PRETZEL CRISPS mark is not generic and is understood by the relevant public as a trademark; and (b) the PRETZEL CRISPS mark has acquired secondary meaning among the relevant public. Plaintiffs are therefore entitled as a matter of law to a judgment that the PRETZEL CRISPS mark is a trademark entitled to registration on the Principal Register pursuant to 15 U.S.C. § 1052.

In support of this motion, Plaintiffs are filing contemporaneously herewith a supporting Memorandum of Law and the Declarations of Rachel M. Sasser, MaryCatherine Regan,

Christopher Lauzau, Elliot Beaver, Dr. E. Deborah Jay, Gary Plutchok, John O'Donnell, Mark Finocchio, and Salvatore D'Agostino.

WHEREFORE, Plaintiffs Snyder's-Lance, Inc. and Princeton Vanguard, LLC respectfully requests that the Court enter summary judgment in their favor on all claims and issue an order:

- A. Reversing the September 6, 2017 decision of the Trademark Trial and Appeal Board in the matter of *Frito-Lay North America, Inc. v. Princeton Vanguard, LLC*, Opposition No. 91195552 and Cancellation No. 92053001 pursuant to 15 U.S.C. § 1071(b);
- B. Ordering that the mark PRETZEL CRISPS, as used in connection with pretzel crackers, is not generic, has acquired secondary meaning, and is registerable as a trademark with the United States Patent and Trademark Office;
- C. Ordering the United States Patent and Trademark Office to register Serial No.
 76/700,802 on the Principal Register;
- D. Ordering the United States Patent and Trademark Office not to cancel
 Registration No. 2,980,303; and
- E. Awarding Plaintiffs such other relief as this Court deems just and proper.

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/s/ Jonathan D. Sasser

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CERTIFICATE OF SERVICE

I do certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record or interested parties via the CM/ECF system.

This 29th day of October, 2018.

/s/ Jonathan D. Sasser

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